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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Eduardo Cisneros Catana,

Petitioner

v.

Kristi Noem, Secretary of the U.S. Department of Homeland Security,

Pamela Bondi, Attorney General of the United States;

Todd M. Lyons, Acting Director of Immigration and Customs Enforcement;

Luis Rosa, Jr., Warden, Central Arizona Florence Correctional Complex;

Christopher McGregor, Field Office Director for Enforcement and Removal Operations, U.S. Department of Homeland Security; In their official capacities,

Respondents

Case No.________________

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner, Eduardo Cisneros Catana, A#221-325-444, is being detained unlawfully at the Central Arizona Florence Correctional Complex in the custody of U.S. Immigration Customs and Enforcement ("ICE"). Petitioner is a noncitizen and longtime resident of the United States who is harmed by Respondents' new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1235.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. Petitioner brings this habeas corpus action pursuant to 28 U.S.C. § 2241 to challenge his continued unlawful detention by Immigration and Customs Enforcement (ICE) in violation of the Immigration and Nationality Act (INA) and the Fifth Amendment to the U.S. Constitution.

3. Absent an Order from this Court, Petitioner will continue to be unlawfully held in detention by ICE.

4. Petitioner asks this Court to find that Petitioner is being unlawfully detained by ICE and order that Petitioner be immediately released from unlawful detention.

II. REQUIREMENTS OF 28 U.S.C. § 2243

5. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." Id. (emphasis added).

6. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to

1 as "perhaps the most important write known to the constitutional law of England,
2 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
3 confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

4 **III. JURISDICTION**

5 7. Petitioner is in the physical custody of Respondents and is detained
6 at the Central Arizona Florence Correctional Complex in Florence, Arizona.
7 8. Petitioner's case arises under 28 U.S.C. §2241, and his claims
8 further arise under the INA, 8 U.S.C. § 1101-1538, and its implementing regulations;
9 the APA, 5 U.S.C. §§ 500-596, 701-706; and the U.S. Constitution.
10 9. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as this is a
11 civil action arising the laws of the United States, and under 28 U.S.C. §2241 as the
12 case challenges Petitioner's unlawful detention.
13 10. The Court may grant relief pursuant to 28 U.S.C. § 2241; the
14 Declaratory Judgment Act, 28 U.S.C. § 2201; the APA, 5 U.S.C §§ 702, 706; the All
15 Writs Act, 28 U.S.C § 1651; Federal Rules of Civil Procedure 65; and the Court's
16 inherent equitable powers.

17 **IV. VENUE**

18 11. Venue properly lies in the District of Arizona under 28 U.S.C §
19 1391(e), because Petitioner is detained in this District.
20 12. In addition, venue is proper in this District because Respondents are
21 officers, employees, or agencies of the United States and because a substantial part of
22 the events or omissions giving rise to the claims occurred in the District of Arizona.

23 **V. PARTIES**

24 13. Petitioner, Eduardo Cisneros Catana, is a native and citizen of
25 Mexico who has resided in the United States for at least twenty years and is currently
26 detained by ICE at the Central Arizona Florence Correctional Complex.
27 14. Respondent, Luis Rosa, Jr., is the legal custodian of Petitioner.
28 Luis Rosa, Jr., is an employee of CoreCivic which is the company that owns and

operates the Central Arizona Florence Correctional Complex. Luis Rosa, Jr., is the Warden of the Central Arizona Florence Correctional Complex where Petitioner is being held in custody, and is sued in his official capacity.

15. Respondent Christopher McGregor is the Acting Field Office Director of Enforcement and Removal Operations for Immigration and Customs Enforcement within the State of Arizona, an agency of the Department of Homeland Security, and is sued in his official capacity.

16. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

17. Respondent Kristi Noem is the Secretary of Homeland Security of the United States. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Respondent Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

18. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity.

VI. LEGAL FRAMEWORK

19. Petitioner's detention violates the plain language of the INA and its implementing regulations. Respondents' new legal interpretation set forth in *Matter of Yajure Hurtado* is plainly contrary to the statutory framework and its implementing regulations.

20. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. The detention provisions at 8 U.S.C. § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most

1 recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat.
2 3 (2025).
3 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
4 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in
5 Section 1226(a) detention are generally entitled to a bond hearing at the outset of their
6 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
7 arrested, charged with, or convicted of certain crimes are subject to mandatory
8 detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).
9 According to the Supreme Court, "§ 1226(c) applies to aliens already present in the
10 United States. Section 1226(a) creates a default rule for those aliens…" *Jennings v.*
11 *Rodriguez*, 138 S.Ct. 830 (2018). The Court states, "Section 1226(a) also permits the
12 Attorney General to release those aliens on bond, '[e]xcept as provided in subsection
13 (c) of this section.'"
14 22. Second, Section 1225 governs DHS's inspection of noncitizens
15 who arrive the borders and ports of entry of the United States. Section 1225 provides
16 for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. §
17 1225(b)(1) and for other recent arrivals "seeking admission" referred to under §
18 1225(b)(2). 8 U.S.C. § 1225(b)(2)(A) applies to individuals who are apprehended on
19 arrival in the United States. It states that an "applicant for admission" who is "seeking
20 admission" shall be detained for a removal proceeding under section 1229a. *Id.*. It
21 does not apply to individuals like Petitioner who are arrested and detained by ICE after
22 having entered and begun residing in the United States many years earlier, who are not
23 "seeking admission."
24 23. Last, the INA also provides for detention of noncitizens who have
25 received a final order of removal from the United States, including individuals in
26 withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b). This section does not
27 apply to Petitioner in this case because he does not have a final order of removal.
28

24. Petitioner's case concerns the detention provisions at § 1226(a) and § 1225(b)(2).

25. For decades, Respondents have applied § 1226(a) to people like Petitioner who entered the United States without inspection and have lived in the United States for many years.

26. In the decades that followed the passage of IRRIRA in 1996, people who had entered without inspection and were thereafter arrested within the United States and placed in removal proceedings were considered for release on bond and also received bond hearings before an IJ under Section 1226, unless their criminal history rendered them ineligible. This practice by EOIR, INS, and then DHS, was a reflection of and implementation of the law as it is written.

27. However, on July 8, 2025, Defendants adopted an entirely new interpretation of the statute, one not supported by the law. On that day, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," (known as "the Lyons Memo") authored by Defendant Todd Lyons, claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades. The Lyons memo is an unlawful agency interpretation that conflicts with statute, precedent, and due process.

28. DHS's and DOJ's interpretation set forth in the Lyons memo and *Matter of Yajure Hurtado* defies the INA. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

29. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this year in early 2025, Congress added subparagraph (E) to Section 1226(c)(1) by enacting the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond eligibility. Under the Laken Riley Act, a noncitizen who entered the U.S. without inspection *and* has been accused of theft-related crimes is not eligible for bond. By adding a provision relating to a person who entered without inspection and has been accused of a theft-related crime the Laken Riley Act actually assumes that a person who entered without inspection *and has not been accused or convicted* of a theft-related crime *is* eligible for bond, as a general rule. Section 1226(c)(1)(E)'s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, *by default*, such people are eligible for release on bond under Section 1226(a), if that person has not been accused or convicted of a theft-related crime. As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Otherwise, Section 1226(c)(1)(E) would be surplusage. Section 1226 therefore leaves no doubt that it applies to people who are present without admission or parole.

30. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "*seeking admission*" to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme Court has explained

1 that this mandatory detention scheme applies "at the Nation's borders and ports of
2 entry, where the Government must determine whether a[] [noncitizen] seeking to enter
3 the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
4 Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
5 people like Petitioner, who has already entered and was residing in the United States at
6 the time he was apprehended.
7 38. Since Respondents adopted their new policies, dozens of federal
8 courts have rejected their new interpretation of the INA's detention authorities. Courts
9 have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the
10 statute as ICE. Even before ICE or the BIA introduced these nationwide policies, IJs
11 in the Tacoma, Washington, immigration court stopped providing bond hearings for
12 persons who entered the United States without inspection and who have since resided
13 here. There, the U.S. District Court in the Western District of Washington found that
14 such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies
15 to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*
16 *Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).
17 39. Subsequently, court after court has adopted the same reading of the
18 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*,
19 *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025);
20 *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL
21 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR
22 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation*
23 *adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13,
24 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588
25 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025
26 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-
27 01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*,
28 No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No.

1 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo*
2 *v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-*
3 *Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24,
4 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La.
5 Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----,
6 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-
7 12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v.*
8 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);
9 Zaragoza Mosqueda v. Noem, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530
10 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL
11 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025
12 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No.
13 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court
14 tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v.*
15 *Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19,
16 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224
17 at *2 (D. Neb. Aug. 14, 2025) (same). Accordingly, the mandatory detention provision
18 of §1225(b)(2)(A) does not apply to people like Petitioner, who have already entered
19 and were residing in the United States at the time they were apprehended.
20 42. Most recently, in the case of *Maldonado Bautista v. Santacruz*, No.
21 5-25-cv-01873-SSS-BFM, U.S. District Court Judge Sykes granted Partial Summary
22 Judgment for Declaratory Relief, finding that this new policy of DHS violates the INA
23 and Due Process. On November 25, 2025, Judge Sykes issued an Order Granting
24 Plaintiff Petitioners' Motion for Class Certification, whereby the Court certified a
25 nationwide "Bond Eligible Class" which includes "All noncitizens in the United States
26 without lawful status who (1) have entered or will enter the United States without
27 inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will
28 not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the

1 time the Department of Homeland Security makes an initial custody determination."
2 In the instant case, Petitioner is a member of the "Bond Eligible Class." However,
3 immigration judges continue to find "No jurisdiction," despite Judge Sykes' Order for
4 Partial Summary Judgment on Declaratory Relief finding that DHS is violating the
5 INA and Due Process, and despite Class certification.

6 **VII. FACTS**

7 31. Petitioner is currently detained at the Central Arizona Florence
8 Correctional Complex in Florence, Arizona. Petitioner entered the United States
9 without inspection in 2001, and has lived in the United States continuously since that
10 time. Petitioner has never been convicted of any crime. Petitioner was not
11 apprehended upon arrival into the United States and is not subject to detention under 8
12 U.S.C. § 1226(c), § 1225(b)(1), or § 1231

13 32. On or about November 5, 2025, DHS officers stopped Petitioner's
14 vehicle and arrested him in Maricopa County, Arizona. DHS issued a Form I-862
15 Notice To Appear, alleging that Petitioner is "an alien present in the United States who
16 has not been admitted or paroled." He is charged with being subject to removal from
17 the United States pursuant to INA 212(a)(6)(A)(i), as "an alien present in the United
18 States without being admitted or paroled, or who arrived at any time or place other
19 than as designated by the Attorney General." *See* 8 U.S.C. § 1182(a)(6)(A)(i).

20 33. On November 25, 2025, an immigration judge at the Florence
21 Immigration Court vacated Petitioner's bond hearing and denied bond because
22 "Hearing vacated – the Court does not have jurisdiction to hold a bond hearing. See
23 Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025)." See, Order of the
24 Immigration Judge.

25 Petitioner is a member of the "Bond Eligible Class" in the case of *Maldonado*
26 *Bautista v. Santacruz*, No. 5-25-cv-01873-SSS-BFM, but Petitioner has not been
27 afforded an individualized bond redetermination hearing pursuant to that class
28 membership.

1 2 3 4

VIII. CLAIMS FOR RELIEF

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Release on Bond

34. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

35. The mandatory detention provision of 8 U.S.C. §1225(b)(2) does not apply to all noncitizens residing in the United States who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. It does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under §1226(c), unless they are subject to §1225(b)(1), §1225(c), or §1231.

36. The application of §1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19

Unlawful Denial of Release on Bond

37. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

38. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*" 62 Fed. Reg. at 10323 (emphasis added). The

1 agencies thus made clear that individuals who had entered without inspection were
2 eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226
3 and its implementing regulations.
4 39. Nonetheless, DHS and EOIR have adopted a policy and practice of
5 § 1225(b)(2) to Petitioner and other *Maldonado Bautista* Bond Eligible Class
6 members. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
7 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
8 **COUNT III**
9 **Violation of the Administrative Procedure Act**
10 **Contrary to Law and Arbitrary and Capricious Agency Policy**
11 40. Petitioner incorporates by reference the allegations of fact set forth
12 in the preceding paragraphs.
13 41. The APA provides that a "reviewing court shall…hold unlawful
14 and set aside agency action, findings, and conclusions found to be … arbitrary and
15 capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C.
16 § 706(2)(A).
17 42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does
18 not apply to all noncitizens residing in the United States who are subject to the grounds
19 of inadmissibility. As relevant here, it does not apply to those who previously entered
20 the country and have been residing in the United States prior to being apprehended and
21 placed in removal proceedings by Respondents. Such noncitizens are detained under §
22 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), §
23 1226(c), or § 1231.
24 43. Nonetheless, DHS and EOIR through the Eloy Immigration Court
25 IJs have a policy and practice of applying § 1225(b)(2) to *Maldonado Bautista* Bond
26 Eligible Class Members such as Petitioner.
27 **COUNT IV**
28 **Violation of Due Process Under the Fifth Amendment**

1 44. Petitioner repeats, re-alleges, and incorporates by reference each
2 and every factual allegation in the preceding paragraphs as if fully set forth herein.
3 45. The government may not deprive a person of life, liberty, or
4 property without due process of law. U.S. Const. Amend. V. "Freedom from
5 imprisonment—from government custody, detention, or other forms of physical
6 restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*,
7 533 U.S. 678, 690 (2001).
8 46. Petitioner has a fundamental interest in liberty and being free from
9 official restraint.
10 47. The government's detention of Petitioner without a bond
11 redetermination hearing to determine whether he is a flight risk or danger to others
12 violates his right to due process.

13 **IX. PRAYER FOR RELIEF**

14 WHEREFORE, Petitioner respectfully requests that this Court:
15 a. Assume jurisdiction over this matter;
16 b. Order that Petitioner shall not be transferred outside the District of
17 Arizona while this petition is pending
18 c. Issue an Order to Show Cause ordering Respondents to show cause why
19 this Petition should not be granted within 3 days;
20 d. Issue a Writ of Habeas Corpus requiring that Respondents release
21 Petitioner or, in the alternative, provide Petitioner with a bond hearing
22 pursuant to 8 U.S.C. § 1226(a) within seven days;
23 e. Declare that Petitioner's detention is unlawful;
24 f. Award Petitioner attorney's fees and costs under the Equal Access to
25 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
26 basis justified under law; and
27 g. Grant any other and further relief that this Court deems just and proper.
28 DATED this 15th day of December, 2025.

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Respectfully submitted,

/s/ Robert E. Coughlon, Jr.

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